

*McMahon*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KOLO, LLC,

Plaintiff,

-against-

KATE'S PAPERIE, LTD.,

Defendant.

07 CIV. 10653

<b>USDC SDNY</b>
<b>DOCUMENT</b>
<b>ELECTRONICALLY FILED</b>
<b>DOC #:</b> _____
<b>DATE FILED:</b> <u>1-31-08</u>

JUDGE: McMAHON

**ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

Upon the declaration of Keith Werner, dated on the 31st day of January, 2008, the affirmation of Robert Varga, Esq., affirmed to on the 31st day of January, 2008, the Memorandum of Law attached hereto, and upon all the exhibits hereto annexed, it is

**ORDERED**, that the above named Defendant show cause before a motion term of this Court, at Room 216, United States Courthouse, 500 Pearl Street, in the City, County and State of New York, on Monday, Feb. 4, 2008, at 11:00 o'clock in the fore noon thereof, or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65, Fed. R. Civ. P., and pursuant to *First Natl. Stores v. Yellowstone Shopping Center*, 21 N.Y.2d 630 (1968), granting a preliminary injunction enjoining the defendant from terminating or cancelling the Plaintiff's leasehold interest in 72 Spring Street, New York, New York, until such time as the instant action is fully decided, together with such other and further relief as this Court may deem just and proper; and it is further

**ORDERED** that, sufficient reason having been shown therefor, pending the hearing of plaintiff's application for a preliminary injunction, pursuant to Rule 65, Fed. R. Civ. P., the

Defendant is temporarily restrained and enjoined from enforcing the Notice of Termination or otherwise taking steps to seek the removal of Plaintiff from the premises located at 72 Spring Street, New York, New York, pending the resolution of the preliminary injunction by this Court;

and it is further

**ORDERED** that security in the amount of \$ \_\_\_\_\_ be posted by the Plaintiff prior to \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon of that day; and it is further

**ORDERED** that \_\_\_\_\_ service of a copy of this order and annexed affidavit upon the defendant or his counsel on or before \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, \_\_\_\_\_, shall be deemed good and sufficient service thereof.

Dated: New York, New York  
January 31, 2008

ISSUED: 3:50 PM

United States District Judge

The parties agree that the filing of an Article 7 proceeding in the N.Y. court and the Termination will not affect the rights of the parties as the spot as of the signing of this Order to Show Cause.

J. Venkelt  
1/31/08  
R. Varga  
1/31/08